IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 6714 of 2006(Y)

PETITIONER:

N.D.JOSEPH, PROPRIETOR,
TRAVANCORE EARTH MOVING COMPANY,
NELLUNATTATHIL HOUSE, THIRUVAMKULAM P.O.,
ERNAKULAM.

BY ADV. SRI.M.K.DILEEPAN
SRI.DEEPAK T.NEDUNGADAN
SMT.P.SUMITHRA

RESPONDENTS:

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1. THE SECRETARY, THE VELIYANAD BLOCK PANCHAYATH, VELIYANAD, ALAPPUZHA.

2. THE ASSISTANT ENGINEER,
VELIYANAD BLOCK PANCHAYATH, VELIYANAD,
ALAPPUZHA.

*3. THE COMMISSIONER OF RURAL DEVELOPMENT,
LMS COMPOUND,
THIRUVANANTHAPURAM.

(* IMPLEADED AS ADDITIONAL 3RD RESPONDENT VIDE ORDER DATED 15/12/2006 IN I.A.No 14570/2006)

BY ADV. SRI.JOMY GEORGE – FOR R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)No. 6714/2006

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE AGREEMENT EXECUTED BETWEEN THE PETITIONER AND THE 1ST RESPONDENT DATED 12/5/2000.

P2 : COPY OF THE SELECTION NOTICE ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT DATED 09/05/2000.

P3 : COPY OF REPRESENTATION GIVEN BY THE PETITIONER TO THE 1ST RESPONDENT DATED 22/3/2005.

P4 : COPY OF REPRESENTATION GIVEN BY THE PETITIONER TO THE 1ST RESPONDENT DATED 04/04/2005.

P5 : COPY OF LETTER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATED 30/7/2005.

P6 : COPY OF THE REPLY GIVEN BY THE PETITIONER TO THE 1ST RESPONDENT DATED 24/10/2005.

P7 : COPY OF THE POSTAL ACKNOWLEDGEMENT CARD DATED 16/11/2005.

P8 : COPY OF THE NOTICE RECEIVED BY PETITIONER FROM THE INCOME TAX DEPARTMENT DATED 10/8/2004.

P9 : COPY OF THE NOTICE RECEIVED BY THE PETITIONER FROM THE SALES TAX DEPARTMENT DATED 03/03/2004.

P10 : COPY OF THE WORK COMPLETION CERTIFICATE ISSUED TO THE PETITIONER DATED 30/3/2006.

P11 : COPY OF the FINAL BILL PREPARED BY THE RESPONDENTS FOR THE WORK DATED NIL.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 6714 of 2006

Dated, this the 8th day of March, 2007

J U D G M E N T

The prayer in the original petition is for a direction to the Government (Addl. 3rd Respondent impleaded herein) to release balance payment due for the roadwork done by the petitioner under the NABARD scheme. The learned counsel for the Panchayat submits that under the Scheme 90% is payable by the Government after sourcing from NABARD and balance 10% will be payable by the Panchayat. Panchayat is stated to have paid more than the proportionate amount payable by them, which is stated to have been done by diverting funds. The learned counsel further pointed out that somebody complained before the Ombudsman against poor quality of work done and the same is pending. If Ombudsman is enquiring into the allegations of quality of work, then that issue has to be settled first before considering payment to the petitioner. In the circumstance, this writ petition is disposed of directing Ombudsman to complete enquiry and pass final orders in the complaint pending before him, after hearing the petitioner since he is the aggrieved

person. As and when Ombudsman passes final orders, the additional 3rd respondent should consider petitioner's claim for release of balance payment based on such order and will grant eligible amount within three months thereafter.

This writ petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg